



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Varner

Serial No. 09/771,431

Filed: January 26, 2001

For: DISPLAY FORM HAVING MAGNETICALLY ATTACHABLE PARTS

: Group Art Unit: 8048

: Examiner: C. Novosad



DECLARATION OF SETH L. PATTERSON,  
UNDER 37 C.F.R. SECTION 1.132

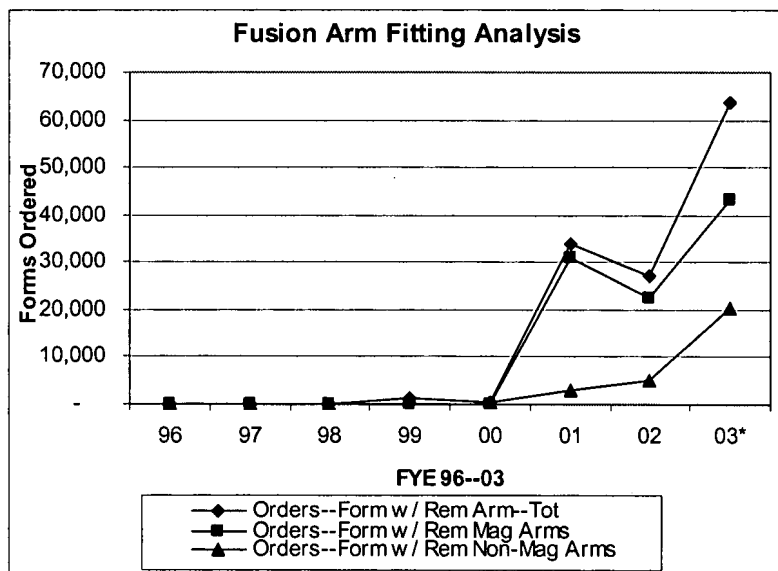


I, Seth L. Patterson, state that I am Chief Operating Officer of Fusion Specialties, Inc., owner of the above-captioned application.

This Declaration provides facts showing commercial success of the said invention. The primary commercial embodiment of the claimed invention is a form with removable magnetic arms which was first sold in the fiscal year ending January 31, 2001 (FYE 2001).

Orders for forms with such removable magnetic arms rose from 0 in FYE 2000 to over 20,000 in each of FYE 2001 and 2002. For the purposes of this declaration, forms include full mannequins,  $\frac{3}{4}$  forms,  $\frac{1}{2}$  forms, or any parts thereof. Orders in FYE 2003 through January 2, 2003 (11 months of FYE 2003) exceed 40,000. During these same periods, we also sold forms with removable non-magnetic arms. Although sales of forms with non-magnetic arms also increased during this time period, the number of forms with magnetic arms sold greatly outnumbers the number of forms sold with non-magnetic arms, as is shown in the graph below. In addition, 80% and 99% of the parts ordered for forms with nonmagnetic arms in FYE 2002 and FYE 2003, respectively, were ordered by a customer who typically displays the forms without arms. Therefore, this customer has a

very limited need for the easily removable arms provided by the claimed invention.



Attached as Exhibit 1 is a list of advertisements from January 1999 to January 2003 placed by Fusion Specialties, Inc., relating to all our products. Only the advertisements marked with an “x” mentioned magnetic parts, and as shown by the typical advertisement attached as Exhibit 2, even the advertisements that mentioned magnetic parts did not emphasize them over other features of the form. This information shows that the increase in sales of the magnetic parts of this invention was not due to increased advertising, but rather was due to immediate consumer acceptance of the magnetic fitting itself, indicating a long-felt need.

We have received many comments from customers advising that their reason for purchasing forms with our removable magnetic arms was because they were easy to use. Our customers have also advised us that our magnetic fittings have superior strength compared to other magnetic fittings they have considered. Some of these comments are included in Declarations from customers provided herewith and attached as Exhibits 3 and 4.

In addition, a license of our technology has been requested by Bernstein Display, Inc., another manufacturer of display forms.

In summary, it is our experience that the magnetic parts of this invention fill a long-felt need in the mannequin industry, as evidenced by increased sales of forms with removable magnetic arms compared with forms with removable non-magnetic arms since they were placed on the market. These increased sales were not due to increased advertising of the magnetic parts compared to the non-magnetic parts. The letters from customers B. Sohr and P. Lehman submitted herewith express the enthusiastic response to our magnetic parts typical of our customers.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

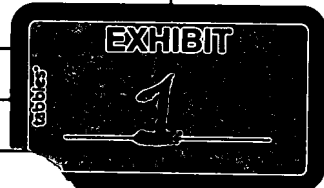
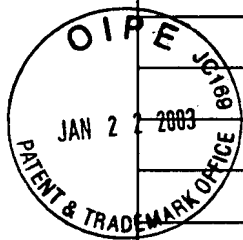
Date:

1/22/03



Seth L. Patterson

Chief Operating Officer



Title	Date	Details	Cost	Mentioned Magnadapt
<b>DDI Ads</b>	2000	January - 1/3 Page	\$3,676.25	
		March - 1/3 Page	\$3,676.25	
		April - 1/3 Page	\$3,676.25	
		July - 1/3 Page	\$3,676.25	
		September - 1/3 Page	\$3,676.25	
		Mid-September 1/3 Page	\$3,676.25	
		December - 1/3 Page	\$3,676.25	
		<b>TOTAL</b>	<b>\$25,733.75</b>	
	2001	January - 1/3 Page	\$4,210.00	
		April - 1/3 Page	\$4,210.00	
		Mid-September - Full Page	\$6,760.00	
			\$15,180.00	
	2002	January - 1/3 Page	\$4,037.50	
		March - Junior Full Page	\$5,392.50	
		April - 1/3 Page	\$4,037.50	X
		June - 1/3 Page	\$4,037.50	
		August - 1/3 Page	\$4,037.50	
		September - 1/3 Page	\$4,037.50	X
		December - 1/3 Page	\$4,037.50	
		<b>TOTAL</b>	<b>29,617.50</b>	
	2003	January - Full Page	\$5,763.00	X
<b>Mailings</b>			<b>Approx. \$</b>	
	1/20/1999	Broncos Mailer	\$1,200.00	
	3/19/1999	Capabilities Brochure	\$5,000.00	
	3/31/1999	FusionFolio	\$10,000.00	
	5/26/1999	Fusion Forms & Mannequins Mailer	\$1,200.00	
	9/24/1999	E-Z Tight II Flange Teaser	\$1,200.00	
	12/10/1999	Holiday Mailer	\$1,200.00	
	4/1/2000	T-Shirt GiveAway	\$5,000.00	
	12/10/2000	Holiday Mailer	\$1,200.00	
	12/10/2001	Holiday Mailer	\$1,200.00	
	12/10/2002	Holiday Mailer	\$1,200.00	
		<b>Aprox. TOTAL</b>	<b>\$28,400.00</b>	
<b>DDI Forum</b>				
	11/1/2002	November 2002 - Sponsor	\$17,000.00	X
		<b>TOTAL</b>	<b>\$17,000.00</b>	

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JAN 28 2003

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